



AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES

601 Madison Street ■ Suite 400 ■ Alexandria, VA 22314 ■ 703/824/0500 ■ Fax 703/820/1395 ■ www.airportnet.org

CQ477

NEPA Task Force
P.O. Box 221150
Salt Lake City, UT 84122

September 23, 2002

Re: Response to Comments
Council on Environmental Quality
National Environmental Policy Act Task Force (Task Force)
Notice of Request for Comments (July 9, 2002, 67 FR 45510-45512) and Notice
Extending Comment Period (August 20, 2002, 67 FR 53931-53932)

To the NEPA Task Force:

The American Association of Airport Executives (AAAAE), founded in 1928, is a non-profit professional organization whose airport executive members are responsible for the planning, management and operation of airports worldwide. As such, our members are directly involved in activities subject to review under the National Environmental Policy Act of 1969 (NEPA). Our members work closely with Federal, State and local agencies as well as communities and citizens, addressing complex issues which require careful consideration, analysis and coordination.

We thank the Task Force for the opportunity to comment on this extremely important process and appreciate the additional time allowed for such responses. Our intent today is not to provide detailed and specific comments on all the questions presented by the Task Force in the Federal Register, such comments and case studies are being presented by member airports. Rather, AAAAE would like to assure the Task Force that it supports the work of the Task Force and is prepared to continue to stay engaged as the Task Force proceeds to evaluate and analyze the comments it received from interested parties. We hope that the Task Force will continue to engage all affected parties in an open dialogue that will serve as basis for a sound resolution of such important matters affecting our Nation's transportation infrastructure.

AAAAE has long supported efforts to enhance our nation's airports capacity and has been the proponent of actions designed to provide greater flexibility in the evaluation, assessment and development of runway sites. Early last year, AAAAE, together with its sister organization, the Airports Council International - North America (ACI-NA) developed the Expedited Airport System Enhancement (EASE) initiative to improve the review and approval process for runways and other capacity enhancement projects (a more detail description of EASE is attached below). The Senate Commerce Committee


2 CP477

passed a project streamlining bill in August of 2001 that includes several EASE-like provisions, and the House of Representatives passed a similar bill in July of this year. Other examples of actions recommended by our EASE initiative that could be considered by the Task Force as it reviews NEPA requirements are the designation of additional funds for agencies directly engaged in critical projects; the creation of a Council, appointed by and reporting directly to the President to coordinate review of federal agency actions as they affect capacity enhancement and environmental review; the establishment of national procedures for excluding specific airport project actions from NEPA review based on historical impact findings for specific types of activities; the facilitation of agreements with local governments to allow additional mitigation for critical airport capacity projects (for example, legislation allowing directed interpretations of policies on revenue diversion and use of passenger facility charges, noise and access restrictions for critical national airport capacity projects to improve mitigation of environmental impacts). We see such efforts as consistent with the Task Force goals of greater interagency coordination and accountability.

More recently, however, on September 18, 2002, the President issued an Executive Order streamlining the environmental review process for airport and other transportation infrastructure projects. The Executive Order calls for the creation of an interagency task force within the Department of Transportation known as the "Transportation Infrastructure Streamlining Task Force." This new cabinet level task force would report to the President and help agencies expedite the review of transportation projects. The new task force would be chaired by Department of Transportation (DOT) Secretary Norm Mineta and include the heads of several other departments and agencies. The Executive Order also calls on the Secretary of Transportation to create a list of high-priority transportation infrastructure projects that should receive expedited agency reviews. Mineta said DOT would develop the list of projects "to tackle immediately," and the Secretary has asked for project nominations from governors, local authorities such as airport directors and other transportation leaders. AAAE thinks it to be important that the Transportation Infrastructure Streamlining Task Force and the NEPA Task Force coordinate their efforts since there may be information which could be mutually beneficial and improve the review process contemplated by both Task Forces.

Finally, AAAE supports any efforts to simplify and expedite the environmental review process under NEPA while continuing to protect the environment and public health. We would appreciate any opportunity to continue to be engaged in this important effort and hope that we can, together, work towards the common goal of a reasonable, efficient and protective review process.

Sincerely,


Claudio H. Tormieden, Director
Environmental Affairs

Attachment

CQ477

Expedited Airport System Enhancement (EASE) Initiative

WHERE WE STAND

It is widely acknowledged that air transportation has become a vital part of our way of life. It eases travel within our country and throughout the world. Its continued ability to grow is critical to our national prosperity and well being. For that growth to continue, we must be able to continue to make substantial improvements to our airports.

In recent years, this country has done a much more effective job of dealing with our environmental challenges. Our water and air are cleaner, but we have a long way to go. As we continue to correct for lapses of the past, our nation is much more attentive to environmental sustainability in planning and executing new projects.

Airports around the country have been leaders in putting in place environmental safeguards and engineering solutions that respond to these environmental imperatives. Most major airports now employ environmental specialists to craft environmentally sensitive project solutions.

In the past five years, airports have spent countless dollars to insure that aviation improvements also further the cause of environmental progress.

The need for aviation infrastructure improvements is fundamentally compatible with the need for environmental progress. What is not compatible is the stark contrast between the urgent need to produce aviation infrastructure improvements and the traditionally slow pace of identifying the environmental safeguards that need to accompany these improvements.

It is true that in years past, when the environmental safeguards were in a Research and Development phase of their evolution, the long time frames may have been needed for us to feel our way. Still further back in time, the same was true on the hard engineering side of these same projects. However, the science associated both with the hard engineering and with the environmental safeguards has now matured to the point where decisions on both can be made more rapidly on the basis of now-ample experience.

From the standpoint of water and air quality, noise, and dozens of other environmental concerns that help to define the end product, it matters little whether the process of moving the project forward takes weeks, months, years, or decades. The important thing is to get the appropriate environmental safeguards identified early and built in as the project progresses. Slow decision-making does not translate into better environmental results.

The interests of our aviation system are best served by accelerating the pace at which delay-reducing projects are moved forward. Such acceleration need not occasion one iota of relaxation of our national agenda of environmental progress. While those who

CQ477

are particularly attuned to the environmental concerns will doubtless be concerned that we can not advance one cause without harming the other, we are prepared to meet these concerns head-on and to recognize that only actual experience can bring the comfort some would seek.

What we are not prepared to accommodate are those who, hiding in the shadows of important and legitimate environmental concerns, are really intent only on stopping needed aviation projects from proceeding.

PROPOSALS

With flight delays and growing concern over system gridlock, it has never been more important to ensure the efficiency and effectiveness of the airport project review process.

AAAE and ACI-NA have developed proposals to improve the environmental approval process for projects that would enhance capacity and reduce delays at the nation's busiest airports. We have worked with environmental, airport planning and development professionals, key FAA staff, ACI-NA environmental and governmental affairs steering groups as well as environmental and aviation law experts. Our goal is to expedite the process by which airport operators, federal and state regulators and environmental agencies review and approve critical airport projects.

The Expedited Airport System Enhancement (EASE) initiative would give priority to critical national airport capacity projects within the scope of existing environmental laws and better integrate application of those laws into the process for approving such projects. EASE also seeks to improve procedures at FAA and elsewhere in the federal government to make sure that these critical projects receive prompt and informed attention.

EASE Proposal

Note: All of these proposed measures would be limited to "Critical National Airport Capacity Projects" at a small number of specifically designated airports where delays have serious impacts on the national air transportation system. They would not change the environmental review process or any other laws or procedures with respect to other projects or other airports.

CQ477

Declaration of "Critical National Airport Capacity" Projects

Proposal: FAA shall establish a threshold of total annual hours of delay at the most delay-prone airports. Upon application by the sponsor of an airport having greater than the threshold amount of delay established by FAA, the Administrator shall designate the project at that airport as a Critical National Airport Capacity Project. In legislation, Congress would determine that, at such airports there is no alternative to a Critical National Airport Capacity Project that is consistent with the needs of the national air transportation system; and, Congress shall declare that no alternative other than a project at that same airport that contemporaneously produces equal or greater capacity is reasonable, prudent, feasible or possible for purposes of the Airport and Airways Improvement Act and federal environmental review laws.

The legislation would mandate that the FAA and all other federal agencies would be required to accept that finding as conclusive. Airports would be included only with their consent and could subsequently opt out of the designation.

Explanation: Under existing laws, the FAA and other agencies must determine whether a reasonable alternative exists to a proposed capacity project. This part of the Alternatives Analysis consumes time, money, and effort even when there is no reasonable alternative. The effect of a Congressional declaration would be to avoid the delay caused by consideration of off-airport alternatives. This proposal, if enacted, would be a legislative determination that these other off-airport alternatives cannot possibly solve the nation's airport capacity problems. A side benefit would be to focus analysis on ways to minimize potential adverse environmental impacts through project design and mitigation. It is estimated that approximately 10 –15 airport projects would qualify for designation as Critical National Airport Capacity Projects.

Priority Processing By All Agencies of Critical Airport Capacity Projects

Proposal: Require by law or executive order that FAA and all other agencies conduct environmental reviews of Critical National Airport Capacity Projects on a "highest priority" basis.

Explanation: Much of the delay in environmental processing occurs outside the FAA, at other agencies. Although proper review by those agencies may take some time, this proposal would ensure that no additional time is lost while the proposal awaits the agencies' attention. The Executive Order implementing this initiative would compel the agencies to provide adequate staffing and funding to insure compliance with the existing CEQ-established deadlines.

CQ477

Airspace System Capacity Enhancement Council/Czar

Proposal: Create a Council/Czar appointed by and reporting directly to the President to coordinate review of federal agency actions as they affect capacity enhancement and environmental review.

Explanation: The Council/Czar would be responsible for examining and addressing any aspect of the system that impedes the volume of air traffic. It could be granted the authority to exempt projects from environmental and other regulations that are unnecessarily hindering capacity enhancement; or, the Council/Czar could simply facilitate coordination with the Secretaries of Transportation, Interior, Commerce, State and Defense, as well as with the Administrator of EPA, with the Chair of the Council on Environmental Quality and with the Governors. It is important, however, that such a Council not be simply another level of review, with boxes to be checked, and reviewers to be staffed.

Airport Funding of Project-Specific Additional FAA Staff or Consultants for Expedited Review of Critical Airport Capacity Projects

Proposal: By law, executive order, or FAA action, allow airports to provide funds to FAA to hire additional, project-specific staff to supervise and implement reviews of Critical National Airport Capacity Projects. The additional staff would work exclusively under FAA's supervision and would have no obligation to the airport.

Explanation: FAA faces serious resource limitations with environmental processing. This proposal would allow the addition of staff for the most difficult and critical projects without increasing FAA's permanent headcount. This is solely a funding mechanism to allow the airports (and through them, the airports' users) to pay the cost of accelerating project reviews.

Categorical Exclusions Expansion

Proposal: By law, executive order, or FAA action, direct FAA to institute national procedures for excluding specific airport project actions from NEPA review.

CQ477

Explanation: Categorical exclusions, as currently outlined in FAA Order 5050.4, constitute a successful FAA review tool that ensures compliance with environmental regulations while expediting agency review. Many, if not most major airport projects, receive approval for categorically excluded elements of the project. While extraordinary circumstances and controversy can and do prevent a specific project category from being universally excluded, apron expansions, taxiway expansions, and other capacity enhancing project elements are customarily approved. Legislative expansion would formalize consistent application of NEPA that allows specific categories of a project to be excluded from review based on historical impact findings.

Facilitation of Agreements with Local Governments to Allow Additional Mitigation for Critical Airport Capacity Projects

Proposal: Legislation which would allow directed interpretations of policies on revenue diversion and use of passenger facility charges, noise and access restrictions for Critical National Airport Capacity Projects to improve mitigation of environmental impacts. Encourage FAA to agree to enforceable limits on new runways, where necessary, to ensure timely approval of Critical National Airport Capacity Projects.

- Local airport funds could be used to reach practical mitigation agreements with nearby communities, even if not traditionally permitted under existing rules on revenue diversion and PFC use. This would be tightly controlled to prevent local governments from holding projects hostage until a "ransom" unrelated to the project impacts is paid. There should be a nexus between the to-be-funded project and the airport runway (Note: the implementing statute would acknowledge that these local communities bear a significant impact on the national need for aviation capacity and therefore, this unique exception for the "revenue diversion" restriction may be justified. This cannot be cited as a precedent for non-critical airport capacity projects).
- FAA would be directed to make binding commitments with respect to air space management, runway use, or other operational conditions for Critical National Airport Capacity Projects, where reasonable, and subject to findings that the limitations do not substantially interfere with air traffic efficiency and safety.
- FAA would be authorized to approve noise or access restrictions on use of a new runway which is designated as a Critical National Airport Capacity Project without further compliance with the procedures under the Airport Noise and Capacity Act (ANCA), where such restrictions are fully evaluated in the EIS for capacity improvement, costs and benefits, preservation of at least the existing level of access, where the projects are deemed necessary to avoid delay in project approval/construction and authorized in the Record of Decision.

CQ477

Explanation: Agreements with local governments surrounding an airport can remove or reduce opposition to a project, saving time and reducing the risk that the project will not be approved. However, those agreements sometimes require funding for purposes not currently approved for use of airport revenues, either because of the application of anti-diversion rules or limits on PFC eligibility. The expansion of mitigation would be limited, to preclude payment of cash bounties or funding of unrelated development that a community desires. Rather, the new authority would cover only costs of reasonable, project-related impacts (as determined by FAA), that go beyond current funding standards. Such expanded funding could include, for example, mitigation of traffic impacts on nearby, non-exclusive airport access roads or repairing building code deficiencies that would otherwise make soundproofing schools or homes ineligible for federal funding.

Some projects would be easier and faster to build if communities could be assured that use of the new runway will be consistent with the assumptions built into the environmental processing (for example, time-of-day and directional limitations, limits on use for departures) but FAA historically has not been willing to give such commitments. Similarly, for those restrictions that might, theoretically, be achievable through an ANCA/Part 161 process, that process may cause added, redundant delay through review of the restriction. FAA has been unwilling to approve any actions under Part 161. In essence, the proposals relating to potential restrictions on new runway use recognize that it may be better to obtain, in a timely manner, a capacity benefit that may be less than a project's full physical capacity, rather than to hold out for an unrestricted project that may be inordinately delayed or never achieved.

Require Realistic State Air Quality Implementation Plans

Proposal: Require State Implementation Plan (SIP) inventories to be revised within 180 days of enactment of legislation to base air quality emissions inventories at airports having Critical National Airport Capacity Projects upon FAA's Terminal Area Forecast for that airport, or an alternate forecast approved by FAA.

Explanation: If a region does not meet national ambient air quality standards, the state is required to prepare a state implementation plan (SIP), that regulates emission sources. The Clean Air Act prohibits FAA from approving an airport project if it will interfere with the SIP. If the SIP already includes an allowance for the project, this process is simple and causes no delay. If the SIP does not include such an allowance, months or years can be lost collecting and analyzing data, and negotiating with air quality agencies. Many SIPs contain unrealistically low airport emissions budgets, and few realistically anticipate reasonable airport growth. Mandatory SIP revisions that realistically account for airport activity would eliminate this major source of delay and risk.

CQ477

Eliminate Requirement under 49 USC § 47106(c)(1)(B) for Governor's Certificate

Proposal: Eliminate, in its entirety, the requirement that each state certify that federally funded airport projects comply with applicable air and water quality standards.

Explanation: This certificate requirement, contained in the Airport and Airway Improvement Act, duplicates existing compliance and conformity rules under the Clean Air Act and Clean Water Act.

CQ477

AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES

601 Madison Street, Suite 400 ■ Alexandria, VA 22314

Phone (703) 824-0504 ■ Fax (703) 820-1395 or (703) 671-8622

<http://www.airportnet.org>**DOCUMENT TRANSMITTAL COVER SHEET**Number of pages (including cover page) 10 Date September 23, 2002To: NEPA TASK FORCEFrom: Claudio H. Fennelien, AAAE Director of Env. Affairs

Please deliver this document promptly to the specified individual. If any error has occurred during transmission please call (703) 824-0504.

NOTES: Please note comments (and attachment)
are also being provided electronically.

Claudio

UPCOMING AAAE CONFERENCES AND EDUCATIONAL PROGRAMS**2002***Scheduled as of 9/11/02—Dates and locations are subject to change*September 22-24—Tampa, Florida *Saddlebrook Resort*September 22—AAAE Basics of Small Airport
Management Workshop (6 CEU credits)September 22—AAAE Professional Accreditation
SeminarSeptember 22-24—AAAE F. Russell Hoyt National Airports
Conference (12 CEU credits)

September 29-October 3—Pittsburgh, Pennsylvania

Embassy Suites Pittsburgh Airport
 Basic and Advanced Aircraft Rescue
 and Firefighting Schools sponsored by
 FAA/AAAE/Northeast Chapter AAAE
 (21 CEU credits)

October 6-8—Chicago, Illinois *Wyndham Chicago*
 AAAE Basics of Airport Law Workshop
 (12 CEU credits)

October 6-8—Sacramento, California
Sheraton Grand Sacramento
 AAAE/Southwest Chapter AAAE
 Non-Hub/General Aviation Conference

October 6-9—Marrakech, Morocco *Palmerie Golf Palace*

Exhibit
Opportunities
Available

North Africa/Middle East/U.S. Airport
 Infrastructure/Safety/Security
 Workshop and Trade Mission sponsored
 by U.S. Trade and Development Agency,
 U.S. Department of Commerce, FAA,
 AAAE and IAAE

October 7-11—Providence, Rhode Island *Providence Biltmore*

October 7-9 ARFF Chiefs School sponsored by
 AAAE and FAA (15 CEU credits)

October 10-11 Airport Emergency Response School
 sponsored by AAAE and FAA
 (12 CEU credits)

October 13-15—Sun Valley, Idaho *Sun Valley Resort*
 AAAE Resort Airports Workshop
 (9 CEU credits)

→ October 13-15—New York, New York **NEW MEETING!**
 AAAE Airport Public Relations
 Conference (9 CEU credits)